

724.31 Persons subject to mental and substance abuse health-related orders or commitments — firearms — restoration of rights — reports.

1. A court order referred to in subsection 2 shall include information informing the person who is the subject of the order not to ship, possess, receive, or transport or cause the transport of firearms or ammunition. The clerk of the district court shall forward only such information as is necessary to identify a person subject to an order in subsection 2 to the department of public safety, which in turn shall forward the information to the federal bureau of investigation or its successor agency for the sole purpose of inclusion in the national instant criminal background check system database.

2. A court order that does any of the following is subject to this section:

- a. Orders commitment pursuant to section 125.84.
- b. Orders commitment pursuant to section 222.31.
- c. Orders commitment pursuant to section 229.14.
- d. Finds a defendant incompetent to stand trial pursuant to section 812.5.

3. a. A person who is the subject of a court order listed in subsection 2 and who has been released from commitment may petition the court that issued the order or the court in the county where the person resides no earlier than two years from the date of the issuance of the order for relief from the disabilities imposed by 18 U.S.C. § 922(d)(4) and (g)(4). A copy of the petition shall also be served on the director of human services and the county attorney at the county attorney's office of the county in which the original order occurred, and the director or the county attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner. A court considering a petition under this section shall receive evidence concerning all of the following:

- (1) The circumstances surrounding the original issuance of the order in subsection 2.
- (2) The petitioner's mental health and criminal history.
- (3) The petitioner's reputation and character.
- (4) Any changes in the petitioner's condition or circumstances since the issuance of the order in subsection 2 that are relevant to the relief sought.

b. The court shall grant a petition filed pursuant to paragraph "a" if the court finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to the public safety and that the granting of the relief would not be contrary to the public interest. The petitioner may appeal a denial of the requested relief and the review shall be de novo. A person may file a petition for relief under this subsection not more than once every two years.

c. If a court issues an order granting a petition for relief under paragraph "b", the clerk of the district court shall immediately forward only such information as is necessary to identify a person granted relief to the department of public safety which, upon receipt, shall immediately forward such information as is necessary to the federal bureau of investigation or its successor agency to update the national instant criminal background check system database with the relief from disabilities.

2010 Acts, ch 1178, §17, 19

Section takes effect January 1, 2011; 2010 Acts, ch 1178, §19

NEW section